

1 IN THE UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 AT TACOMA

4 HIDDEN HILLS MANAGEMENT,)
5 LLC, and 334th PLACE 2001)
6 LLC,)
7)
8 Plaintiffs,) NO. 3:17-cv-06048-RBL
9 vs.)
10 AMTAX HOLDINGS 114, LLC,)
11 and AMTAX HOLDINGS 169,)
12 LLC,)
13)
14 Defendants.)
15)
16 AMTAX HOLDINGS 114, LLC,)
17 AMTAX HOLDINGS 169, LLC,)
18 and PARKWAY APARTMENTS,)
19 LP,)
20)
21 Counter-Plaintiffs,)
22 vs.)
23)
24 HIDDEN HILLS MANAGEMENT,)
25 LLC, and 334th PLACE)
26 2001, LLC,)
27)
28 Counter-Defendants.)
29)

30 (b) (6) DEPOSITION UPON ORAL EXAMINATION OF
31 AMTAX HOLDINGS 169, LLC
32 CHRIS BLAKE
33 Friday, October 26, 2018

34 taken at
35 600 University Street, Suite 3600
36 Seattle, Washington

37 DIANE RUGH, RMR, CRR, CCR #2399
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1 Q. And which of the topics are you here to testify
2 about today?

3 MS. JOHNSON: While Mr. Blake is reviewing
4 this, I do just want to note for the record that we did
5 serve objections and agreed to produce him on all the topics
6 subject to those objections.

7 THE WITNESS: I believe the topics in Exhibit
8 A.

9 Q. (BY MR. PRITCHARD) Okay.

10 And do you understand if I refer to "AMTAX" during
11 this deposition, I will refer to AMTAX 169?

12 A. Yes.

13 Q. Do you know why you were chosen as AMTAX
14 representative for these topics?

15 MS. JOHNSON: Objection to the extent it calls
16 for attorney-client privileged information and work product.

17 But you may answer.

18 THE WITNESS: I was one of the primary contacts
19 at Alden Torch in negotiations for Parkway and Hidden Hills
20 for the sale and refinance of those properties.

21 Q. (BY MR. PRITCHARD) Where are you employed?

22 A. Alden Torch Financial.

23 Q. What's your title there?

24 A. Director, Capital Transactions.

25 Q. What generally are the duties associated with that?

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1 don't think there's any reason to be checking in more
2 frequently than that.

3 Q. (BY MR. PRITCHARD) So one of the responsibilities
4 of an asset manager would be to do an annual audit review?

5 MS. JOHNSON: Objection. Calls for
6 speculation.

7 THE WITNESS: I believe so, yes.

8 Q. (BY MR. PRITCHARD) Did that occur in connection
9 with Parkway?

10 MS. JOHNSON: Same objections.

11 THE WITNESS: I don't know specifically, but I
12 think so.

13 Q. (BY MR. PRITCHARD) You don't know if anyone at
14 AMTAX reviewed the annual audit statements?

15 MS. JOHNSON: Objection. Mischaracterizes his
16 testimony.

17 THE WITNESS: As a part of an annual audit
18 review, I believe that's an asset management function, so I
19 assume that's what Gary did each year. And then as a part
20 of the capital transaction review, we'd obviously go in and
21 take a look at the audited financials because that goes into
22 our models and our projections.

23 Q. (BY MR. PRITCHARD) How many other low-income tax
24 credit properties do you work with?

25 A. Me specifically?

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1 Q. (BY MR. PRITCHARD) So what typically happens after
2 a property stops delivering tax credits to a limited
3 partner?

4 MS. JOHNSON: Objection. Vague.

5 THE WITNESS: Nothing's required at that time,
6 so it would just continue to operate until you get to the
7 end of compliance. In some cases the partners decide that
8 they no longer want to own the property and they can sell it
9 at that point, or in the case of Parkway, I think a general
10 partner can make an offer to purchase the limited partner's
11 interest.

12 Q. (BY MR. PRITCHARD) Did that happen here?

13 MS. JOHNSON: Objection. Vague, calls for
14 speculation, calls for a legal conclusion.

15 THE WITNESS: We didn't sell the LP interest.
16 We negotiated for a while and that ultimately broke down.

17 Q. (BY MR. PRITCHARD) But the general partner made an
18 offer to purchase the limited partner's interest in Parkway;
19 right?

20 MS. JOHNSON: Objection. Calls for a legal
21 conclusion.

22 THE WITNESS: Yes.

23 Q. (BY MR. PRITCHARD) So there's nothing stopping a
24 buyout of the limited partner's interest before the
25 compliance period ends; is that right?

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1 THE WITNESS: It would be within the
2 Partnership Agreement. If there's an outstanding default
3 that has not been cured, then I don't think the general
4 partner could validly exercise its option until this
5 happened.

6 Q. (BY MR. PRITCHARD) What's the basis for that?

7 A. I guess common sense. I think that you wouldn't
8 want to sell your interest in a partnership if there were
9 major defaults outstanding and you were entitled to
10 additional proceeds that aren't contemplated under the
11 appraisal process.

12 Q. When you say "you," who are you referring to?

13 MR. PRITCHARD: Could you read back the last
14 answer, please?

15 (Court reporter read back as requested.)

16 THE WITNESS: The limited partner.

17 Q. (BY MR. PRITCHARD) Can you point to any language
18 in Section J here that supports what you just said in your
19 prior testimony?

20 MS. JOHNSON: Objection. Calls for a legal
21 conclusion, document speaks for itself.

22 THE WITNESS: Well, it says, "Subject to
23 compliance in Section 42 of the Code and the rules of the
24 agency."

25 So a major default might be that the property

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1 And I would instruct you not to answer to the
2 extent it calls for attorney-client privileged information.

3 THE WITNESS: Not necessarily.

4 Q. (BY MR. PRITCHARD) So were you not monitoring the
5 process in connection with the buy-out under Section 7.4.J
6 as it progressed in 2018?

7 MS. JOHNSON: Objection. Mischaracterizes his
8 testimony, may call for attorney-client privileged
9 information.

10 THE WITNESS: I don't think I would be involved
11 until our counsel was satisfied that all defaults had been
12 cured. So no.

13 Q. (BY MR. PRITCHARD) Do you know if it's accurate
14 that all of the information that is referenced in this
15 letter was in fact provided to AMTAX?

16 MS. JOHNSON: Objection. Calls for
17 speculation, lacks foundation.

18 THE WITNESS: I didn't verify myself. I have
19 no reason to believe that these items were not provided.
20 But I confirmed that each one was received.

21 Q. (BY MR. PRITCHARD) At the time of this letter had
22 AMTAX selected an appraiser?

23 MS. JOHNSON: Objection. Calls for
24 attorney-client privileged information and/or attorney work
25 product.

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1 And to the extent it would require you to
2 divulge that information, I would instruct you not to
3 answer.

4 MR. PRITCHARD: It's asking for a fact. It has
5 nothing to do with attorney-client privilege or work
6 product.

7 Q. (BY MR. PRITCHARD) You can answer the question.

8 MS. JOHNSON: I will decide whether he's
9 instructed not to answer; whether he follows my instruction.

10 Again, to the extent you believe it requires
11 you to divulge that information, I'd instruct you not to
12 answer. Otherwise you can.

13 THE WITNESS: I don't know.

14 Q. (BY MR. PRITCHARD) Do you know when AMTAX selected
15 an appraiser?

16 MS. JOHNSON: Same objections.

17 THE WITNESS: I don't.

18 Q. (BY MR. PRITCHARD) If we could just turn quickly
19 back to Exhibit 1. Topic 1 says, "All reasons for AMTAX
20 169's failure to provide an appraisal as required by Section
21 7.4.J of the Parkway Limited Partnership Agreement."

22 You're the designated representative to answer
23 questions related to this topic; right?

24 A. That's right, but most of those discussions again
25 were with counsel, and it's my understanding that they are

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1 subject to attorney-client privilege.

2 Q. So you're not going to answer questions related to
3 this topic on the basis that it's protected by
4 attorney-client privilege?

5 MS. JOHNSON: Objection. Argumentative,
6 mischaracterizes his testimony.

7 THE WITNESS: As I said, I can answer anything
8 that's not subject to that privilege, but what you're asking
9 for I believe is protected.

10 Q. (BY MR. PRITCHARD) But you don't know when AMTAX
11 selected an appraiser?

12 A. I don't.

13 Q. But you are the representative to answer these
14 questions related to this; right?

15 A. That's right.

16 Q. Is it your position that the timing of selecting an
17 appraiser is protected by the attorney-client privilege?

18 MS. JOHNSON: Objection. Calls for a legal
19 conclusion, argumentative, beyond the scope of the topic.

20 THE WITNESS: No, I'm saying I don't know when
21 the appraiser was engaged. But the appraiser was engaged by
22 counsel so, you know, I was not directly involved.

23 Q. (BY MR. PRITCHARD) So the appraiser wasn't engaged
24 by AMTAX?

25 MS. JOHNSON: Objection. Calls for

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1 MS. JOHNSON: Objection. Calls for
2 speculation.

3 THE WITNESS: Because it also involves a
4 Partnership Agreement required -- or mandated an appraisal
5 process with the same general partner.

6 Q. (BY MR. PRITCHARD) What does the Hidden Hills
7 dispute have to do with whether 334th Place can exercise its
8 option under Section 7.4.J of the Parkway LPA?

9 A. We believe the Hidden Hills appraisal process was
10 manipulated and that the general partner acted in bad faith
11 in order to suppress the limited partner's purchase price on
12 that. And accordingly, we would expect them to also
13 manipulate the Parkway appraisal process.

14 Q. So you don't view 334th Place and Hidden Hills
15 Management as separate entities?

16 MS. JOHNSON: Objection. Mischaracterizes his
17 testimony.

18 THE WITNESS: I'm saying Catherine Tamaro is
19 the general partner in both partnerships.

20 Q. (BY MR. PRITCHARD) Did AMTAX view its duty to
21 provide an appraisal under Section 7.4.J under the Parkway
22 LPA as somehow related to the Hidden Hills dispute?

23 MS. JOHNSON: Objection. Calls for
24 speculation.

25 THE WITNESS: I don't know. I think that would

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1 be a legal consideration.

2 Q. (BY MR. PRITCHARD) Just asking for your
3 understanding. Is that how you viewed it?

4 MS. JOHNSON: Objection to the extent it calls
5 for a legal conclusion or attorney-client privileged
6 information.

7 Otherwise you can answer.

8 THE WITNESS: They're separate Partnership
9 Agreements and would have separate appraisal processes.
10 But I do view their -- I view it as having a connection
11 because there is the same general partner, and again would
12 be concerned that they would manipulate the process in a
13 similar manner.

14 Q. (BY MR. PRITCHARD) Is there any allegation that
15 334th Place manipulated the process in connection with 7.4.J
16 in the Parkway Partnership?

17 A. I don't believe so.

18 Q. This letter also states that, "AMTAX is in the
19 process of evaluating questionable activity by 334th Place
20 in its capacity as a General Partner of the Partnership."

21 A. That's right.

22 Q. What does that mean?

23 A. When we have properties or partnerships that are
24 involved in litigation, we review all of the other
25 properties that we're partnered in to see if there's any

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1 similar activity that would also constitute a default.

2 Q. You say you do this for all properties in
3 connection with a potential buy-out; is that your testimony?

4 A. No. I'm saying that when we're in active
5 litigation with a specific general partner, we review all of
6 our other partnerships to look for questionable activity.

7 Q. You weren't in active litigation with 334th Place
8 at the time of this letter, were you?

9 MS. JOHNSON: Objection. Calls for
10 speculation.

11 THE WITNESS: No, but it's the same person that
12 is the general partner, so.

13 Q. (BY MR. PRITCHARD) When did AMTAX first start
14 investigating questionable activity?

15 A. I mean, this goes back to when I started at Hunt at
16 the time. So there's always been kind of ongoing questions
17 about unauthorized fees and other payments to the general
18 partner.

19 But I think as it relates to this letter, it would
20 have been sometime in Q1 2018 that we did kind of a deeper
21 dive into the financials for the properties that we are
22 partners with Catherine in.

23 Q. So you said you did a deeper dive. So that was --
24 was that undertaken by you?

25 A. No.

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1 MS. JOHNSON: Objection to the extent it calls
2 for attorney-client privileged information and attorney work
3 product.

4 Otherwise you can answer.

5 THE WITNESS: So we have some accountants that
6 do kind of forensic accounting and will go back and review
7 the audited financials, compare those to all of the legal
8 and Regulatory Agreements to make sure that everything is
9 done by the letter of the agreements. And they would have
10 performed that.

11 Q. (BY MR. PRITCHARD) Who are these people?

12 A. I believe it would have been John Thomas and Caley
13 Diaz, I believe is her last name.

14 Q. What are their roles at AMTAX?

15 A. They're the forensic accountants that I've just
16 described.

17 Q. Within Alden Torch?

18 A. They are Alden Torch employees.

19 Q. Were you in communication with them during this
20 deeper dive?

21 MS. JOHNSON: Same objections.

22 THE WITNESS: When their analysis was complete,
23 yes.

24 Q. (BY MR. PRITCHARD) Did you correspond with them in
25 connection with their results?

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1 MS. JOHNSON: I'm going to object to the extent
2 this calls for attorney-client privileged information or
3 attorney work product and instruct you not to answer to the
4 extent it does.

5 THE WITNESS: I met with them to review their
6 conclusions, yes.

7 Q. (BY MR. PRITCHARD) What did you talk about?

8 MS. JOHNSON: Same objections.

9 THE WITNESS: Basically all the questionable
10 activity that we've identified as a part of this lawsuit.
11 So the calculation of fee amounts.

12 MS. JOHNSON: Let's take a quick break.

13 Q. (BY MR. PRITCHARD) Were you finished answering the
14 question?

15 MS. JOHNSON: Sorry. As soon as he's finished.

16 THE WITNESS: Yes.

17 (Short break.)

18 Q. (BY MR. PRITCHARD) So I just want to be clear from
19 the outset, I'm not asking for anything that's
20 attorney-client privileged, so keep that in mind as I'm
21 asking these questions.

22 A. Sure.

23 Q. But so you said, I think, that you asked John
24 Thomas and Caley Diaz to do a deep dive in the first quarter
25 of 2018 into the financial issues in the Parkway

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1 Partnership; is that right?

2 MS. JOHNSON: And I'm going to just to keep
3 asserting the attorney-client privilege objection
4 instruction and say "same objection" to speed this along.

5 THE WITNESS: I would just clarify that I think
6 I testified that I have no oversight. I believe that
7 project was requested and kind of overseen by counsel. I
8 reviewed the numbers to always have a second set of eyes and
9 just discussed everything because there will be implications
10 on a capital transaction. But to be clear, I didn't run
11 that effort.

12 Q. (BY MR. PRITCHARD) So you never had any
13 conversations about this with John Thomas and Caley Diaz
14 outside of the presence of counsel?

15 A. Not to my recollection, no. I think counsel was
16 always present.

17 Q. So you never had any communications with them
18 whatsoever outside of the presence of counsel?

19 MS. JOHNSON: Objection. Mischaracterizes his
20 testimony. Do you mean communications about these issues?

21 MR. PRITCHARD: About these issues, yes.

22 THE WITNESS: Right. Counsel was always
23 present in those communications.

24 Q. (BY MR. PRITCHARD) So there are no emails, then,
25 that counsel was not copied on between either of these two

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1 Alden Torch employees or you and these two employees?

2 MS. JOHNSON: Objection. Calls for
3 speculation. Same objections.

4 THE WITNESS: I don't believe so for that
5 specific analysis.

6 Q. (BY MR. PRITCHARD) Counsel was copied on
7 everything?

8 MS. JOHNSON: Same objections.

9 THE WITNESS: If there were emails, yes. And
10 my recollection was we would just meet with counsel, and it
11 was kind of a high level looking at audited financials and
12 the actual relevant agreements. But yes. So I'm not sure
13 that there were many emails, if any.

14 Q. (BY MR. PRITCHARD) How many times did you meet on
15 this issue?

16 A. Two or three times.

17 Q. What did these two accountants ultimately prepare?

18 MS. JOHNSON: Objection to the extent it calls
19 for attorney-client privileged information and work product.

20 I would instruct you not to answer.

21 THE WITNESS: Basically the list of
22 unauthorized payments or payments that we dispute.

23 Q. (BY MR. PRITCHARD) Is that it?

24 MS. JOHNSON: Same objections.

25 THE WITNESS: Yes.

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1 Q. (BY MR. PRITCHARD) Was it a report?

2 MS. JOHNSON: Same objections.

3 And I'd instruct you not to answer to the
4 extent it calls for attorney work product or attorney-client
5 privileged information.

6 THE WITNESS: Counsel determined what we
7 produce, and anything that would have been --

8 Q. (BY MR. PRITCHARD) Right. And I'm asking what
9 these two people prepared. They're not lawyers; right?

10 A. No. They're accountants.

11 Q. What did they prepare?

12 MS. JOHNSON: Same objections.

13 THE WITNESS: Basically a compilation of all
14 prior year fees and payments that we do not believe the
15 general partner was entitled to pay themselves, or accrue.

16 Q. (BY MR. PRITCHARD) Did AMTAX produce that in this
17 case?

18 MS. JOHNSON: Objection. Calls for
19 speculation, calls for attorney-client privileged
20 information and attorney work product.

21 Chris, I'm instructing you not to answer.

22 THE WITNESS: I will follow counsel's
23 instructions.

24 MR. PRITCHARD: You're instructing him not to
25 answer whether AMTAX produced this report?

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1 MS. JOHNSON: I'm instructing him not to answer
2 as to any attorney-client privileged information or attorney
3 work product documents that were prepared at the instruction
4 of counsel.

5 Q. (BY MR. PRITCHARD) How far back did these
6 accountants look?

7 MS. JOHNSON: Same objections.

8 THE WITNESS: As far as I know, to partnership
9 origination. So it would have been 2002, or if an audit
10 wasn't produced in 2002, then 2003.

11 Q. (BY MR. PRITCHARD) What did they look at?

12 MS. JOHNSON: Same objections.

13 THE WITNESS: Payments to the general partner
14 and affiliates.

15 Q. (BY MR. PRITCHARD) What did they review?

16 MS. JOHNSON: Objection. Calls for
17 speculation, calls for attorney-client privileged
18 information and attorney work product.

19 You may answer if it doesn't.

20 THE WITNESS: Audited financial statements.

21 Q. (BY MR. PRITCHARD) Is that it?

22 MS. JOHNSON: Same objections.

23 THE WITNESS: I've already testified that they
24 reviewed those in conjunction with relevant agreements of
25 the Partnership Agreements and any of their amendments that

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1 would be pertinent.

2 Q. (BY MR. PRITCHARD) If there's any non-privileged
3 documents that these two accountants prepared in connection
4 with this deeper dive, would AMTAX produce them to us in
5 this litigation?

6 MS. JOHNSON: Objection to the extent they're
7 responsive and relevant.

8 But otherwise you may respond.

9 THE WITNESS: Yes. I don't think that would be
10 a problem.

11 MR. PRITCHARD: Is there a claim it's not
12 relevant?

13 MS. JOHNSON: There's no claim. I'm saying
14 that it's counsel's call whether something is produced or
15 not, and I just want to make sure it's clear on the record
16 that that's the case.

17 Q. (BY MR. PRITCHARD) Do you know when the Hidden
18 Hills lawsuit was filed?

19 A. I don't know the exact date.

20 Q. Does November 2017 sound right to you?

21 A. Yes, roughly.

22 Q. And this deeper dive occurred in the first quarter
23 of 2018, you said; right?

24 A. It may have started in late 2017. I don't know for
25 sure. But again, I didn't instruct those accountants to

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1 start that process, that was directed by counsel. So I'm
2 not sure when that whole process started.

3 Q. And the extent this list of, I guess you said
4 unauthorized -- the results of these accountants'
5 investigation, the list of unauthorized fees or payments, to
6 the extent that involves purely factual information, what
7 did it consist of?

8 MS. JOHNSON: Objection.

9 I'm going to instruct you not to answer on the
10 basis of attorney-client privilege and attorney work
11 product.

12 MR. PRITCHARD: I'm asking for the facts that
13 these people produced in connection with their
14 investigation.

15 MS. JOHNSON: I'm going to assert the same
16 objections and instruct you not to answer.

17 Q. (BY MR. PRITCHARD) And again, just to be clear,
18 you said there were no emails between these two accountants
19 and anyone else at AMTAX that were not copied with an
20 attorney?

21 MS. JOHNSON: Objection. Mischaracterizes his
22 testimony. Same objections as before.

23 THE WITNESS: Not to my knowledge.

24 (Exhibit 6 was marked.)

25 Q. (BY MR. PRITCHARD) Have you seen this letter

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1 A. That's right, yes.

2 Q. Do you know when 334th Place first sought to bring
3 the Parkway dispute into this case in federal court?

4 A. I don't know. I wouldn't have been a part of that
5 discussion.

6 Q. Is it on May 18, 2018?

7 MS. JOHNSON: Objection. Asked and answered.

8 THE WITNESS: I think that would have been
9 handled by counsel. I don't know the exact date.

10 (Exhibit 8 was marked.)

11 Q. (BY MR. PRITCHARD) This is a letter from AMTAX
12 that was sent on May 8, 2018. And we'll get to the
13 substance of it later, but is it fair to say that this
14 letter and the allegations in it form the basis for the
15 counterclaims that AMTAX asserted in this case?

16 MS. JOHNSON: Objection. Calls for
17 speculation, calls for a legal conclusion, document speaks
18 for itself.

19 THE WITNESS: Generally, yes.

20 Q. (BY MR. PRITCHARD) Is this letter representative
21 of the results of the deeper dive that the two accountants
22 did in the first quarter of 2018?

23 MS. JOHNSON: Objection. Calls for
24 attorney-client privileged information and attorney work
25 product.

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1 a legal conclusion.

2 THE WITNESS: Yes, I think the items described
3 in the letter are the uncured defaults that I've mentioned.

4 Q. (BY MR. PRITCHARD) Right. And so that's the
5 reason why AMTAX has refused to participate in the process
6 called for in Section 7.4.J; correct?

7 MS. JOHNSON: Same objections.

8 THE WITNESS: That's right. I mean, not
9 refused, but to resolve these items before that process
10 continues.

11 Q. (BY MR. PRITCHARD) Actually, if you could just go
12 back to Exhibit 5 quickly. There's one other question I
13 had.

14 It says here in the last paragraph, "AMTAX will
15 address your request to move forward with the appraisal
16 process set forth in Section 7.4.J of the Partnership
17 Agreement once it has completed its review of the issues
18 identified above."

19 Why is that referred to as a "request"?

20 MS. JOHNSON: Objection. Calls for
21 speculation, lacks foundation.

22 THE WITNESS: I'm not sure. I didn't write the
23 letter.

24 Q. (BY MR. PRITCHARD) Do you know if the author of
25 this letter viewed it as a request and not a contractual

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1 MS. JOHNSON: Objection. Document speaks for
2 itself.

3 THE WITNESS: Sorry, was there a question?

4 Q. (BY MR. PRITCHARD) Yeah.

5 Do you see where it says that?

6 A. Yes.

7 Q. What's the basis for that statement?

8 MS. JOHNSON: Objection to the extent it calls
9 for a legal conclusion and attorney-client privileged
10 information.

11 Otherwise you may answer.

12 THE WITNESS: I think it's fairly
13 self-explanatory. We don't want to proceed with an
14 appraisal process that ultimately results in us selling our
15 interest in a property because that's our last chance to get
16 the amounts that are owed to us. So it makes sense to cure
17 out all outstanding defaults prior to proceeding with the
18 process.

19 Q. (BY MR. PRITCHARD) And this letter goes on to
20 state that 334th Place must "immediately cancel and
21 relinquish all accounts payable by the Partnership to the
22 General Partner (currently estimated to total in excess of
23 \$2.7 million). Is that right?"

24 A. That's what it says.

25 Q. What's the basis for that?

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1 MS. JOHNSON: Objection. Calls for
2 speculation.

3 And to the extent it calls for attorney-client
4 privileged information, I'd instruct you not to answer, but
5 otherwise you may.

6 THE WITNESS: I believe that our counsel
7 determined that would be the amount that it would take to
8 cure these defaults and breaches based on their discussions
9 with our forensic accounting group.

10 Q. (BY MR. PRITCHARD) So this letter is essentially,
11 is it fair to say, demanding that unless 334th Place gives
12 up more than 2.7 million of what its owed, then AMTAX won't
13 move forward with the appraisal process under Section 7.4.J?

14 MS. JOHNSON: Objection. Mischaracterizes
15 testimony, misstates the document, document speaks for
16 itself.

17 THE WITNESS: Again, it says "currently
18 estimated," and I don't think it was that specific. But
19 basically, yes, it was saying these items need to be cured
20 before we proceed.

21 Q. (BY MR. PRITCHARD) Do you know how much AMTAX
22 claimed for damages in its counterclaims?

23 A. I don't remember the number.

24 Q. Will you believe me if I represented to you that it
25 was 1.5 million?

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1 A. Right. So until the items that are mentioned in
2 that letter, if there's any other additional claims that
3 aren't mentioned in that letter are resolved, AMTAX doesn't
4 plan to proceed with the appraisal process.

5 Q. Is it still AMTAX's position that that would
6 require giving up 2.7 million in accounts payable?

7 MS. JOHNSON: Objection. Mischaracterizes his
8 testimony, misstates the documents, may call for a legal
9 conclusion or attorney-client privileged information.

10 Otherwise you may answer.

11 THE WITNESS: Possibly. As time passes and if
12 there are continued mismanagement of partnership funds and
13 payments to affiliates that aren't authorized, that number
14 can grow over time. Or if certain items are cured, it may
15 go down. But I don't think we're locked into that specific
16 number, because it's fluid.

17 Q. (BY MR. PRITCHARD) Okay. I'm going to shift gears
18 a little bit.

19 What can you tell me about what Parkway's audit
20 requirements are generally?

21 MS. JOHNSON: Objection. Calls for a
22 narrative, may call for a legal conclusion.

23 THE WITNESS: I believe that's detailed in the
24 Partnership Agreement, but generally the general partners
25 are required to provide audited financial statements each

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1 year that are -- I believe they're subject to our approval.

2 Q. (BY MR. PRITCHARD) They're subject to AMTAX's
3 approval?

4 A. Our review, yeah.

5 Q. Review or approval? Or both?

6 A. Both.

7 Q. And is it the LPA that requires that the audits
8 occur?

9 MS. JOHNSON: Objection. Calls for
10 speculation.

11 THE WITNESS: I believe so. And some of that
12 might be included in the Management Agreement as well.

13 Q. (BY MR. PRITCHARD) Do you know if HUD requires
14 annual audits of the Parkway Partnership?

15 A. I believe so.

16 Q. Any other agencies that would require it in the
17 context of this property?

18 A. I think all tax credit partnerships are required to
19 obtain an annual audit.

20 Q. So how does it work? Once the audit is finished,
21 is it distributed to these agencies normally?

22 A. I'm not sure if the state reviews a copy, but HUD
23 would review a copy, I believe.

24 Q. And AMTAX would as well?

25 A. That's right. So we would get a draft, we'd review

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1 it and provide comments, and the general partner would work
2 with the CPA to finalize it and sign off on it.

3 Q. So AMTAX would review before the audit is
4 finalized; is that right?

5 A. In some cases, not all cases. So I think there
6 would be a high-level review, and then if there were any red
7 flags that came up as a part of that process, they might
8 look into it deeper. If nothing jumped out at the asset
9 manager or accountant, they might just instruct the GP to go
10 ahead and finalize.

11 We do have thousands of partnerships, so.

12 Q. Is there a formal process in place for how Alden
13 Torch would handle review of annual audits?

14 A. There is. It's an asset management function so I'm
15 not familiar with all the technical or a detailed picture of
16 how that process works, but there is a process in place.

17 Q. Okay.

18 So in this case it would be more in Gary Newbold's
19 wheelhouse?

20 A. It was the annual audit review at the time he was
21 the asset manager, yes. And obviously when capital
22 transactions is involved we would look at the audits, and
23 sometimes we'd flag things that weren't caught in the audit
24 reviews and kind of elevate those and try to get answers to
25 those questions, which I think is what happened in a couple

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1 instances in Parkway.

2 Q. And is that before or after the audits are filed
3 that you would get involved?

4 A. It depends on the time of year that we start
5 looking at a property. So if I started looking at a
6 property and only the draft was available, then it would
7 have been finalized yet. But if I started looking at a
8 property later in the year, obviously the audit has been
9 finalized and filed already.

10 Q. Okay.

11 And so that's one of Gary Newbold's functions as
12 the asset manager, to review the annual audit draft either
13 in draft form or after it's finalized?

14 A. I believe so, yes.

15 Q. So he would have done that every year that he was
16 the asset manager; right?

17 MS. JOHNSON: Objection. Calls for
18 speculation, lacks foundation.

19 THE WITNESS: I believe so.

20 Q. (BY MR. PRITCHARD) And there's been an audit every
21 year for Parkway since 2002; right?

22 A. I think so. There should have been, yeah.

23 Q. And the partnership -- those audit statements were
24 filed and reviewed by AMTAX every year?

25 MS. JOHNSON: Objection. Calls for

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1 speculation.

2 THE WITNESS: You know, I can only speak about
3 what's happened since I've worked at Hunt and Alden Torch,
4 so I'm not sure what the process was at Paramount and
5 Catmark. I assume it was similar if not identical. I just
6 wasn't there. I can't guarantee that.

7 Q. (BY MR. PRITCHARD) So why were the two accountants
8 that Alden Torch directed to investigate mismanagement asked
9 to look back to 2002?

10 MS. JOHNSON: Objection to the extent it calls
11 for attorney-client privileged information and attorney work
12 product.

13 Otherwise you can answer.

14 THE WITNESS: Because that's when the
15 partnership was formed.

16 Q. (BY MR. PRITCHARD) If AMTAX found something
17 inaccurate in an audit when it reviewed it, how would it
18 handle that situation?

19 MS. JOHNSON: Objection. Incomplete
20 hypothetical, calls for a legal conclusion.

21 THE WITNESS: Depends on the inaccuracy. But I
22 believe the asset manager would notify the general partner
23 and the general partner would need to notify the auditor and
24 obtain a corrected audit.

25 Q. (BY MR. PRITCHARD) Do you know if that has

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1 occurred since you've been at either Hunt Companies or Alden
2 Torch?

3 A. For Parkway?

4 Q. Yeah.

5 A. I don't know.

6 Q. Has it occurred with other partnerships that you've
7 been involved with?

8 A. I know that we have gotten revised audits and
9 financial statements.

10 Q. But you don't know if that happened with Parkway?

11 A. I don't know.

12 Q. Since you've been at Alden Torch, did AMTAX review
13 each audit as it came in each year?

14 A. Each audit for Parkway?

15 Q. For Parkway, yes.

16 A. As far as I know, someone at Alden Torch would have
17 reviewed those. But again, I don't know what level of detail,
18 but yes.

19 Q. Same is true for Hunt Companies before Alden Torch?

20 A. Yes, as far as I know.

21 Q. And if AMTAX saw issues in the audit, would it
22 contact 334th Place to address that?

23 MS. JOHNSON: Objection. Incomplete
24 hypothetical, calls for speculation.

25 THE WITNESS: Most likely, yes.

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1 THE WITNESS: Yes, these are a portion of the
2 items that were listed in the letter.

3 Q. (BY MR. PRITCHARD) Is Caley Diaz your subordinate?

4 A. She doesn't report to me.

5 Q. So why did you ask her to do this?

6 MS. JOHNSON: Objection to the extent it calls
7 for attorney-client privileged information and attorney work
8 product.

9 I'd instruct you not to answer.

10 THE WITNESS: Because as I mentioned, all of
11 our deals in litigation -- or I should say when we're
12 involved in litigation with a general partner we will look
13 at all of the other properties, and apparently she hadn't
14 done this one. But that is our standard process.

15 Q. (BY MR. PRITCHARD) And this is you -- this is the
16 deep dive that you were testifying to; right? This is you
17 requesting that she do the deep dive; is that right?

18 MS. JOHNSON: Objection. Mischaracterizes his
19 testimony.

20 And again, I will instruct you not to answer to
21 the extent it calls for attorney-client privileged
22 information or attorney work product.

23 THE WITNESS: Yeah, I asked her to look into
24 it, the numbers.

25 Q. (BY MR. PRITCHARD) Did you ask any accountants at

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1 accurate.

2 Q. (BY MR. PRITCHARD) So part of the due diligence
3 that you did, it looks like it's an email from Gary Newbold
4 to ask someone else at Hunt Company to make this audit a
5 priority to review? That's what he says here; right?

6 MS. JOHNSON: Objection. Compound.

7 THE WITNESS: Yes.

8 Q. (BY MR. PRITCHARD) So review of the audit is a
9 significant part of the due diligence that you would do in
10 connection with a buy-out; right?

11 MS. JOHNSON: Objection. Mischaracterizes his
12 testimony, calls for speculation.

13 THE WITNESS: Yes, I believe so.

14 Q. (BY MR. PRITCHARD) So this would have been a
15 review of the audit for 2013; is that right?

16 A. Yes.

17 Q. Is this the same John Thomas, is this one of the
18 forensic accountants from 2018?

19 A. Yes, it is. But again, that group didn't exist at
20 the time. I think he was more of just like a staff
21 accountant at the time.

22 Q. But he was in a similar role at that time as he is
23 now?

24 A. Well, he's no longer at the company. In I guess
25 the end of 2017 and early 2018, he was a part of that

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1 were still reviewing it.

2 Q. And this is the same audit that -- if we could turn
3 back to Exhibit 22. This is the same audit that you said,
4 "I think we are on the same page with respect to the audit
5 and can move forward with discussion of selling the LP
6 interest." It's the same one; right?

7 A. Yes.

8 Q. So that also includes the deferred developer fee
9 issues that you were raising in March of 2014, doesn't it?

10 MS. JOHNSON: Objection. Argumentative,
11 mischaracterizes testimony.

12 THE WITNESS: Again, I've mentioned that there
13 are multiple items of disagreement on the developer fee.
14 She believed she addressed one of them by adjusting the
15 accrued interest in 2013. But as we sit here today, we've
16 done, obviously, more review and determined that that was a
17 year too late.

18 So the more we dig into this the more we
19 uncover and the more unauthorized activity we've uncovered.

20 Q. (BY MR. PRITCHARD) Let's go to the 2013 audit.
21 It's Exhibit 16, Page 10, Note 7.

22 Are you contending that there is anything in this
23 development fee note that was not -- let me rephrase it.

24 A. I think I have the wrong document. Can you repeat?

25 Q. Exhibit 16, the 2013 audit.

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1 MS. JOHNSON: Same objection.

2 THE WITNESS: No. I think the audit accurately
3 reflects what happened, but what happened wasn't in
4 accordance with the Partnership Agreement.

5 But, you know, if the general partner made an
6 equity contribution in 2013, that's reflected accurately.
7 And that statement would be accurate based on what actually
8 happened, not what we think should have happened based on
9 running the partnership based on the requirements of the
10 Partnership Agreement.

11 Q. (BY MR. PRITCHARD) So the counterclaims and the
12 May 8th letter also state that 334th Place "Paid Project
13 Management Fees that collectively exceeded the 4 percent Net
14 Rental Income cap set forth in the LPA by more than
15 \$100,000."

16 Is that right?

17 A. Yes.

18 Q. Can you point me specifically to where you're
19 getting the \$100,000 figure?

20 A. That's not my calculation.

21 Q. Whose calculation is it?

22 MS. JOHNSON: Objection.

23 To the extent it calls for attorney-client
24 privileged information or attorney work product, I would
25 instruct you not to answer.

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1 THE WITNESS: I won't answer, based on
2 counsel's recommendation.

3 Q. (BY MR. PRITCHARD) You're not going to answer who
4 came up with this number?

5 MS. JOHNSON: Same objections and instruction.

6 THE WITNESS: I don't know. I assume it came
7 from our counsel's conversations with the forensic
8 accounting group. But I didn't come up with that number and
9 wasn't -- I didn't come up with the number. I don't know.

10 Q. (BY MR. PRITCHARD) But it was based on a number
11 calculated by one of the members of the forensic accounting
12 group; is that right?

13 MS. JOHNSON: Objection. Misstates his
14 testimony, calls for speculation.

15 Same objections and instruction.

16 THE WITNESS: I'm saying that's possible, but
17 it's not difficult math. So counsel may have just looked at
18 the management fee paid in a given audit, calculated the net
19 rental income, and if it exceeds 4 percent then you add that
20 and do that for each year.

21 So it doesn't necessarily take a forensic
22 accountant to do that; it may have been counsel.

23 Q. (BY MR. PRITCHARD) You verified that the
24 counterclaims were true and accurate, didn't you?

25 A. Yes.

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1 Q. And are you aware that AMTAX has a responsibility
2 to demonstrate the actual, specific itemized damages that
3 it's claiming in the counterclaims?

4 A. I assume so.

5 Q. Are you able to do that as a 30(b)(6) witness here
6 today?

7 A. I mean, I don't know how I would be able to
8 calculate every single fee here that's been paid out of
9 order as we sit here today.

10 I thought my responsibility was to educate myself
11 on these, and I looked at various audits, and if a
12 management fee exceeds 4 percent it exceeds 4 percent. And
13 I have no reason to believe that whoever prepared this
14 number was not able to calculate that accurately.

15 Q. Can you turn to Exhibit 1, Topic 14, please.

16 MS. JOHNSON: To the extent you're going to
17 refer to a topic in the deposition notice, I'll just
18 reiterate that he's been produced subject to the objections
19 that were asserted, including objections based on privilege
20 and legal conclusions and expert testimony.

21 Q. (BY MR. PRITCHARD) Can you read No. 14, please?

22 A. "Every element of the claimed damages of
23 \$1.5 million in AMTAX 169's counterclaims, and for each
24 element or component the amount of damages sought and an
25 explanation of the basis for the claim damages."

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1 Q. You're the designated representative to testify to
2 this topic, aren't you?

3 A. Yes.

4 Q. So who does know the answer to the question of how
5 that number was arrived at?

6 MS. JOHNSON: Objection. Argumentative, asked
7 and answered.

8 Q. (BY MR. PRITCHARD) It's not you, right? You just
9 testified it's not you.

10 MS. JOHNSON: Objection. Mischaracterizes his
11 testimony, harassing.

12 THE WITNESS: Yes, I didn't calculate that
13 number, but I was involved in discussions with counsel
14 during that deep dive process and have no reason to believe
15 that that number is not accurate.

16 Q. (BY MR. PRITCHARD) So who is the representative of
17 AMTAX that can answer the question and substantiate the
18 damages in this case?

19 MS. JOHNSON: Objection, again. Harassing.
20 This topic was objected to. Mr. Blake can testify as to the
21 information he knows that's not privileged. Mr. Blake is
22 the designated representative on this topic subject to our
23 objections.

24 THE WITNESS: As I testified, I believe that
25 discussion was protected by attorney-client privilege.

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1 Q. (BY MR. PRITCHARD) So you're saying the amount of
2 AMTAX's damages in the counterclaims is protected by
3 attorney-client privilege?

4 MS. JOHNSON: Objection. Mischaracterizes his
5 testimony, asked and answered, harassing.

6 THE WITNESS: I'm saying that the discussions
7 where those amounts were determined is privileged.

8 MS. JOHNSON: Let's take a quick break.

9 (Short break.)

10 Q. (BY MR. PRITCHARD) Are you ready to itemize the
11 damages for over \$100,000 in this case that AMTAX claimed?

12 A. They're described in the May 8th letter.

13 Q. Can you point that out, please? Where?

14 A. In the bullet points. So conceptually, I've walked
15 you through why we disagree with all of these items, and
16 that was used to arrive at the amount of damages.

17 Q. But you can't give me a specific itemization of the
18 more than \$100,000 in alleged unauthorized project
19 management fees; is that right?

20 MS. JOHNSON: Objection. Mischaracterizes his
21 testimony.

22 THE WITNESS: No. Again, those amounts were I
23 guess determined in discussions with counsel, and I'm
24 instructed not to discuss anything that would be subject to
25 attorney-client privilege.

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1 Q. So if you back out just the fees that are Advances
2 from GP and Trieste Holdings, that's \$2 million; right?

3 A. It is.

4 Q. That's more than the 1.5 million in damages that
5 AMTAX is claiming in this litigation; right?

6 A. Obviously 2 million exceeds 1.5, so.

7 Q. So you approved of \$2 million in fees in 2014?

8 MS. JOHNSON: Objection.

9 Q. (BY MR. PRITCHARD) That's what this waterfall
10 says; right?

11 MS. JOHNSON: Objection. Mischaracterizes his
12 testimony, mischaracterizes the document, calls for a legal
13 conclusion.

14 THE WITNESS: Potentially, yeah. I mean, we
15 may not have dug in as deep as we should have, and maybe she
16 would have gotten away with paying herself fees that were
17 not authorized. But I don't know what these numbers are
18 comprised of, so.

19 Q. (BY MR. PRITCHARD) Well, you do know that it's
20 advances to the general partner and it's fees claimed by
21 Trieste Holdings which is an affiliate of the general
22 partner; right?

23 MS. JOHNSON: Same objection. Document speaks
24 for itself, calls for speculation.

25 THE WITNESS: It's amounts owed to those two